

**THIS DECISION HAS BEEN APPEALED. THE FOLLOWING  
IS THE RELATED SOAH DECISION NUMBER:**

**SOAH DOCKET NO. 453-05-3173.M5**

MDR Tracking Number: M5-04-2346-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 titled Medical Dispute Resolution of a Medical Fee Dispute, and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on March 29, 2004.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the electrical stimulation, continuous passive motion, massage therapy, aquatic therapy/exercises, office outpatient visit, therapeutic exercises, psychological testing, diagnostic interview, psychiatric interview, preparation of report from 04-07-03 through 06-02-03 were not medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 06-29-04, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Max. Allowable Reimbursement)	Reference	Rationale
04-24-03	99214	\$71.00	\$0.00	No EOB	\$71.00	1996 Medical Fee Guideline	Requestor submitted convincing evidence of carrier receipt of the providers' request for EOB's, therefore will be reviewed in accordance with the 1996 MFG since the carrier did not provide a valid basis for the denial of this service. Recommend reimbursement in the amount of

							\$71.00
TOTAL		\$71.00					The requestor is entitled to reimbursement of \$71.00.

### ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable for date of service 04-24-03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 5<sup>th</sup> day of November 2004.

Patricia Rodriguez  
Medical Dispute Resolution Officer  
Medical Review Division

PR/pr

### NOTICE OF INDEPENDENT REVIEW DECISION

**Date:** May 25, 2004

**RE:**

**MDR Tracking #:** M5-04-2346-01

**IRO Certificate #:** 5242

\_\_\_ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to \_\_\_ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

\_\_\_ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a Physical Medicine/Rehabilitation/Chiropractic reviewer (who is board certified in Physical Medicine and Rehabilitation) who has an ADL certification. The reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

## **Clinical History**

The claimant is now an approximate 60 year old female who has a date of injury of \_\_\_\_ when she fell while working. When she fell, she landed on the sidewalk hitting her left knee on the edge of the cement and she twisted to the left and injured her left ankle and her right ankle also hit the concrete in this fall. Immediately following this injury she was taken to the local hospital and was seen by \_\_\_\_ and underwent immediate surgery within hours for fracture. The MRI performed on 10/2/00 showed a comminuted fracture of the proximal tibia which appears subacute, linear tear of the posterior horn medial meniscus, complete tear of the lateral meniscus with displacement of the large meniscal fragment medially into the central portion of the knee. The claimant is post operative most recently on 12/18/02 by \_\_\_\_\_. The claimant is known to be diabetic and is on oral medications. EMG testing has shown peripheral neuropathy most likely secondary to her diabetes which is not uncommon. This claimant's height is 59", recorded weight 162 pounds. By body mass index this claimant would be obese. Retrospective review performed on 4/3/03 states the surgery on 2/18/03 by \_\_\_\_ was for removal of plates and screws, and scar revision. His instructions on that date were to keep working the scar to loosen it from the underlying tissue. He felt that her tibia was well healed and that she had full range of motion of the knee. Recommendations according to past review by \_\_\_\_ were for her to continue physical therapy and home massage. Review that was performed on 4/3/03 by \_\_\_\_, physical medicine and rehabilitation specialist, felt that this claimant did not need any further structured ongoing physical therapy. By records reviewed, services rendered from 4/7/03 through 6/2/03 by \_\_\_\_ are for 20 dates of service. On these dates of service, multiple modalities have been billed on a large portion of the dates. This claimant was also sent for a diagnostic psychological interview to \_\_\_\_

## **Requested Service(s)**

Electrical stimulation, continuous passive motion, massage therapy, aquatic therapy/exercises, office outpatient visit, therapeutic exercises, psychological testing, diagnostic interview, psychiatric interview, preparation of report for dates of service 4/7/03-6/2/03.

## **Decision**

I agree with the insurance carrier and find that the services in dispute were not medically necessary.

## **Rationale/Basis for Decision**

After review of the medical records and billing sheets, I do not feel psychiatric interview intervention this far from injury is necessary or reasonable. Dates of service for ongoing structured physical therapy this far from surgical intervention in my opinion is not reasonable or medically necessary. After the claimant's last surgical procedure, a short course of therapy of 6-8 sessions for instructions as to range of motion, strengthening, stretching and massage to the scar is all that would be medically appropriate. Continued modality care and continued structure therapy this long after her surgical intervention is not justified. In the claimant's notes, her pain level remains at a 3-4/10 throughout treatment. No real change in her pain is found, only temporary relief with passive modalities. On dates of service, multiple modalities have been provided and billed. According to the literature in fields of physical medicine and rehabilitation, osteopathic medicine, chiropractic medicine and physical therapy, modalities beyond 3 offer little to any additional medical benefit to the claimant. Therefore according to literature and the

US Guidelines by the Health and Human Services Department, they all recommend 3 modalities per session. Also, office visits when modalities are provided, are not usual and customary to be billed separately. This is considered reimbursable with the modality fees.

After review of the submitted documentation for ongoing structured physical therapy and psychiatric testing referral on this claimant from 4/7/03 to 6/2/03, in my opinion, is not medically justified or necessary. I feel this claimant could have been performing a home exercise program and would have had a short course of physical therapy following her last surgical procedure for instructions on this same type program and could have continued that on her own. Lack of medical justification for the ongoing continued conservative care in this claimant with, in my opinion, over utilization of modalities charged. The simple surgical procedures performed, a removal of the screws and hardware, would not require the rehabilitation services that the original surgery would have incurred. This claimant has had ongoing therapy throughout her lengthy course of treatment and I feel that her benefit from this type of conservative rehabilitation efforts would have preceded the treatment dates beginning 4/7/03 forward.

In accordance with Commission Rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to the patient, the requestor, the insurance carrier, and TWCC via facsimile or U.S. Postal Service from the office of the IRO on this 26<sup>th</sup> day of May 2004.